

REMARKS

Claims 18-24 and 27 are pending in the application.

Claim 18 has been rejected for containing the term “substituted”. Claim 18 has been amended to remove the phrase “which may be substituted or unsubstituted”. Applicants respectfully submit that this amendment overcomes the indefiniteness rejection and request that this rejection be withdrawn.

Claims 18-24 and 27 are rejected for nonenablement. Applicants respectfully traverse this rejection. The specification teaches immunomodulatory moieties based on sound chemical principles. As further evidence of this, Applicants submit herewith a supplemental declaration of Dr. Ekambar Kandimalla. Dr. Kandimalla previously submitted a declaration showing results of experiments as taught in the specification from which immunomodulatory moieties can be seen to provide the results taught in the specification. The supplemental declaration further shows that, following the teachings of the specification with only routine experimentation, similar results are obtained with additional modifications. According to Patent and Trademark Office policy, as described in M.P.E.P. § 2164.01 “The fact that experimentation may be complex does not necessarily make it undue, if the art typically engages in such experimentation” and “the test of enablement is not whether any experimentation is necessary, but whether, if experimentation is necessary, it is undue.”

Certainly, in the art of immunomodulatory oligonucleotide analogs, the type of experimentation taught in the specification is typical. Dr. Kandimalla’s declaration further proves that using only routine experimentation, as taught in the specification, the immunomodulatory effects of the modifications taught in the specification is readily determined. In addition, in the related case Serial No. 10/406,015, claims of similar scope were found to be enabled. Accordingly, Applicants respectfully submit that the specification enables the claimed invention and request that this rejection be withdrawn.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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